





S P E E C H

ON THE

COMMISSION OF INQUIRY

INTO THE

STATE OF THE UNIVERSITIES

OF

OXFORD AND CAMBRIDGE,

DELIVERED BY THE

RIGHT HON. W. E. GLADSTONE,

M.P. FOR THE UNIVERSITY OF OXFORD,

ON THURSDAY, JULY 13, 1850.

OXFORD :

J. H. PARKER.

1850.



S P E E C H, &c.

SIR,

In one point, at least, I have the satisfaction of agreeing with the honourable gentleman who has just sat down (Mr. Bunbury). I concur in the construction which he has put upon the motives that have prompted the noble Lord (J. Russell) to form the intention of issuing a Commission of Inquiry into the State of the Universities of Oxford and Cambridge, under the authority of the Crown. I believe that those motives are conformable to the verbal professions of the noble Lord, and that he is not prompted by feelings unfriendly to these Universities.

I am the more anxious at once to make this admission, and to make it freely and without reserve, because, with respect to the hasty and ill-advised project itself, it will be my absolute duty to express, in the strongest language, the most hostile opinions. Indeed, even thus late in the day I earnestly hope, and I cannot bring myself entirely to abandon the expectation, that the noble Lord may yet

be brought to reconsider an intention, conceived with so much precipitancy, and in an evil hour. I am convinced that he has heard much during this discussion—particularly in the able speech of the honourable and learned member for Newark (Mr. Stuart)—touching questions of which he little dreamed when, to the surprise of the House, he made his ill-omened announcement; and, unless I am greatly mistaken, before this discussion closes, and the subject is finally dropped, the noble Lord will hear much more with respect to the constitutional, nay I may almost say as to the legal, character of the Commission which he proposes to appoint, upon grounds which he himself seems not to have subjected to scrutiny, and which will ill bear the scrutiny of others.

There is one reason, Sir, and one only, for which I cordially regret the necessity that my duty imposes on me of objecting to the issue of such a Commission: it is this, I will not say because such opposition may be construed to imply fear of the results of inquiry, but because I am certain that any report, which any Commission, however constituted, may make, must redound so greatly to the honour of those, who are engaged in carrying on the actual work of the Universities. It would be presumption in me to bear witness respecting the University of Cambridge, well as I can believe that of these two bodies alike what I state is strictly true: but, confining myself to the case of Oxford, upon which I may venture to speak from personal knowledge, I should certainly be glad of such a testimony, as I am convinced the report of the Commission could not fail

to bear, to the exemplary discharge of arduous duties by those, to whom are there committed the care and instruction of the flower of English youth. Go there when it will, the Commission will find them so engaged, not under the coercion or influence of law, not under the expectation of Royal Commissioners, scarcely hearing and not at all dreading the echo of Parliamentary debate ; and nowhere throughout the country will be found any body of men, who, as a body, are more competent for their duties—more devoted to the great work of true and genuine education—more indefatigable in their industry—more adorned, I will venture to say, with the virtues and accomplishments that belong to Christians, to scholars, and to gentlemen. So far as their personal interests and feelings are concerned, I cannot regret that any inquiry should be instituted, which would be conducted, as this will no doubt be conducted, if it be made at all, by honourable men : for the evidence it will obtain, be its amount and general character what it may, will assuredly, with respect to the men engaged in the work of education at Oxford, carry conviction to the minds of those, few in number I am sure they even now are, who may be inclined to view them with suspicion and mistrust. But, in a question of this nature—not only a great academical, but, as I believe and hold it to be, a great constitutional question—I must cast aside all consideration of what would be most favourable to their interests or agreeable to their feelings, and must fasten my attention upon the public and constitutional principles which are involved in the issue before us.

Now, Sir, any Commission of Inquiry into the Universities, be it what it may, is at best a great evil. And no such Commission therefore should be appointed, except when the appointment of it—with all the mischiefs, all the inconveniences it may entail—is calculated to prevent, and is the only way of preventing, other and greater evils. I do not doubt your power, I do not deny under given circumstances your right and your duty, either to inquire into the state of the Universities, or to modify and alter that state, provided the grounds be sufficient and the means unexceptionable. But the kind of interference proposed is one that nothing could justify, and in this case, at this time, there is no justification for your interfering at all.

Any Commission, I say, any intervention of the State in the concerns of the Universities against their will, is of itself a great evil, and this in many ways. In the first place, whatever verbal construction you may put upon the measure, it is a presumptive censure by the State upon the Academical bodies; and it gives occasion and encouragement to every hasty observer to fix his eye upon obvious, and perhaps superficial, but certainly partial, blots in this College or in that, upon this or that flaw which may be found in some minute part of a comprehensive system, and to overlook the less salient but fundamental points that determine the prevailing character of these institutions, and the pervading principles that have made them fountains of inestimable blessings to the country.

Again, in the case of a body devoted to education, and divided into senior and junior members, it is

essential to peace, and to real progress, that an unbroken confidence and respect should be felt by the younger members for the authority of their academical superiors; but to such sentiments you give a powerful shock, by introducing into the University an apparently rival and even hostile authority, such as a tribunal of inquiry into the conduct of those superiors; and a shock of this kind, as an interruption to the proper work of the place, is in itself another very serious evil.

Indeed, in less restricted terms, I must assert that by the contemplated measure you will introduce into the University an element of discord and of disorganisation, because a body with such aims and so constituted cannot prosper, it is the dictate alike of reason and of history, amidst contention: peace and repose are the first conditions of the successful prosecution of the work of instruction, of the acquisition of solid learning, of training character and controuling passion, of the formation of fixed habits of thought. For these purposes the movement of the mind must be tranquil, and must also be free. And here I am brought into view of another principal evil attending the appointment of this Commission. It interferes with a principle most dear to Englishmen, most characteristic of England—the principle of local self-government, and of the freedom of institutions necessary for the national welfare, but not directly belonging to political purposes, from the ordinary controul of the State. To this principle it is admitted on all hands that our country owes much of its prosperity, for it is by its means that her inhabitants receive an universal

training for the discharge of public duties. It is in this respect that other nations have found it most difficult to imitate that which we happily possess. It has been by their familiarity with it from their British origin, that, as De Tocqueville has so well shown, the United States of America were enabled to organise their remarkable constitution, and to achieve their present greatness. And to this day, as I am not ashamed to remind you, the United States are distinguished from every other country, by the liberal facility with which their State Governments are accustomed to confer corporate privileges upon local bodies, and the respect they pay and the security they furnish to the subaltern freedom which they have thus created.

These, Sir, are considerations, general indeed in their nature, but most weighty and substantial, which tend to show what serious evils must always attend upon the interference of the State with the Universities, and which should therefore induce the House to pause before lending a favourable ear to any such proposal; and to require, in the first place, full and clear proof of the evils to be removed, and of the impracticability or hopelessness of their removal by the free assent and deliberate agency of these bodies themselves.

Passing on from these general considerations, I will now come to close quarters with the plan of the noble Lord (J. Russell). I say that no mere general statements, no prospect of simply speculative improvement, will justify the interposition of the State. You must be able to show the prevalence of serious evils, and the neglect of duty on

the part of those who should redress them. This you cannot show, and therefore there is no shadow of a justification for your interference. Nay, more: as to the Universities, considered apart from the Colleges, you admit that there is no such case. The noble Lord tells us his purpose and desire is, that the Colleges should now do their part, as the Universities, both in Oxford and in Cambridge, has set them the example. No man in this House has charged the Universities with sluggishness or indifference to reform; but, on the contrary, loud and just eulogies have been pronounced upon them for the introduction of wise, great, and comprehensive improvements into their system. As if to give greater force to this part of the case, it was on the very day, the 23d of last April, when the University of Oxford had given its full and final sanction to the new Statute of Examinations, that the noble Lord aimed the blow I now seek to avert. The honourable Member indeed, who spoke last, alleges that the academical constitution is bad, and requires reform. But the noble Lord made no such allegation, and gave us no reason whatever to believe that a reformation of the constitution of either University was to be considered by the Commissioners. He founded himself altogether upon the state of the Colleges, as making good his case for interference: He allowed that the Universities were doing their duty, and therefore that he need not do it for them. And yet, strange to say, it is into the case of the Colleges that he has no prentension whatever to inquire: The Universities are incorporated by Parliament: the Colleges are pri-

vate incorporations, in no way, by no form of inference however indirect, subject to the power of the Crown : where he has a right to examine, he admits there is no occasion ; where he has occasion to examine, he has not even himself alleged a right.

Well, Sir, let us examine the question as to the Colleges. However I may think it my duty to protest against every unconstitutional exercise of power by the Crown, I do not claim for the Colleges of Oxford and Cambridge, or for any other foundation whatever, an exemption, under all circumstances, from Legislative controul. It is not necessary for me, here and now, to discuss the question, what your duties or your rights, in conjunction with the Queen and the House of Lords, would be, if the advance of improvement in the Universities and in the Colleges were to be stayed. It is far from being my opinion that the work is yet complete. The great changes which have been made in the statutes of Oxford, with respect to the course of instruction, ought there to entail, and with all my heart I hope they will entail, careful and well-considered, but extensive, and, I will add, early, changes in the Colleges. Yet for these changes you must surely allow a reasonable time. No body has more urgent and constant necessity to plead for such allowance than the House of Commons ; none ought to be more ready to make it on behalf of others. The Colleges, it will justly be said, ought to follow in the wake of the University, and to second the changes it has made. Well and good : but these changes they could not know by divination. It has cost the University no small time and pains to bring them to maturity, and to deter-

mine upon them in detail. Further, the changes, that may follow in the Colleges what the University has done, will not only require time, because you cannot expect that nineteen independent corporations will act with the uniformity and speed of a single organ, but because in their own nature they must be such as demand from prudent men great consideration. Many new branches of study, instead of being left to be taken up collaterally and at will, have now received their formal place in the course of academical instruction. Of all these there must be provided competent teachers in the Colleges: there must be a large addition to the staff of tutors. But the House is bound to give a reasonable time for this new organisation and distribution of duties. It is not as if the University or the Colleges were criminally charged for not having done all this before. The demands made upon the University are demands that have emerged with the necessities of the times. And to them she has given, or is engaged in giving, a full answer. Nay, in many things she has, both now and on former occasions, anticipated the desire of the general public. If the Colleges should fail to act in the spirit of the University—if they should not make it their aim to render their endowments available in the highest degree for the encouragement of learning, the reward of merit, and the enlargement of the circle within which their benefits are diffused, I grant that the time may come when the interference of the State may be required; but at this time you have no justification for it.

Now, Sir, as this Commission cannot exercise an ordinary jurisdiction, as it purports to be wholly

remedial, let us examine the allegations that are made concerning any evils which are supposed to require such a remedy.

One of the most popular and plausible of these, in regard to Oxford, is that, under the present system, you have no security for the appointment of the most competent persons to fill the office of tutor; and ingenious arguments are used, to show how this failure may possibly occur. But I ask this House to turn from speculation to facts. I will try the character of the Oxford Tutors by the best test of which the case admits, and one which, though I do not assert it to be perfect, will nevertheless be admitted to be adequate: I mean the honours which they have gained from the University.

There are at present, in the different Colleges and Halls of Oxford, seventy-eight Tutors, and these seventy-eight Tutors have taken, among them, no less than eighty-five first and second classes; of which, I think, fifty-four are first classes: and, that the House may be able to judge what these facts are really worth, I must add that among the whole body of persons—commonly, I believe, above three hundred—who pass through their examination in each year, not more perhaps than from ten to fifteen obtain a first class. But besides these classes, there are among these seventy-eight Tutors, twenty-nine other University honours of the highest order: and again, among the whole number there are only six, who have not obtained distinctions of a very high order in the University. After this, Sir, I think that, however isolated cases may stand, we shall not have the appointment of the Commission defended in this

House upon the ground that the present system at Oxford has failed to secure the appointment of efficient and distinguished men to the office of tutor.

Sir, the next among these allegations, and one on which the noble Lord (J. Russell) has particularly dwelt, is this, that the old College statutes, forsooth, prevent the cultivation of the new studies which it is the especial aim of the recent statute of the University to foster. This allegation has not been sustained by proof: and can only be met, as I meet it, by flat denial. In the spirit of those ancient statutes there is nothing that is hostile, everything that is favourable, to the extension of learning: and I have yet to be informed in what singular particular even their letter supports this chimerical assertion.

But then, again, it is said, that these statutes are unalterable, according to a clause contained in them, and that they require adaptation to the times: and this is a point requiring more full consideration.

Sir, I believe it is a matter which some conceive to be subject to doubt in point of law, whether there exist any unalterable statutes—unalterable under the existing ordinary jurisdictions: whether in every case the joint powers and concurrence of the Visitor of the College—of the representative of the Founder—and of the actual incumbents, would not be sufficient in law to warrant the alteration of any statute. But I will not place any stress upon a doubtful argument: and I will assume it to be the fact that there exists no lawful ordinary power to change these statutes.

I hold it to be perfectly plain that Founders have

no right to bar, throughout all time, every alteration of their statutes, and that if any injunctions they may have left to that effect cannot be relaxed without legislation, then they should be relaxed by legislation: but surely it is as plain that we are bound to see, in the first instance, that all the powers of the ordinary jurisdiction have been tried and exhausted, before we resort to a measure which, though right in itself, may be placed hereafter as a precedent and authority for wrong. But there has been no such exhaustion, no such trial; nor can the aid of Parliament be invoked with propriety so long as, for all we learn, it may turn out to have been wholly unnecessary. And even if that aid be required, how do we know that the Colleges themselves will not seek for it, and why, now that a crisis in their history has come, why do we not allow them time to show that they are alive to its importance, and prepared to act as it requires?

But, Sir, it is likewise right that the House should be aware, that, as I am informed by persons who ought to be the very best acquainted with the subject, this allegation of unalterable statutes does not extend to more than five or six of the Colleges in Oxford. A provision of this kind appears to have been first introduced in the case of New College by William of Wykeham, and his example was followed by succeeding Founders. To me, I confess, it is extremely curious and instructive, to mark the epoch of its introduction. It seems most probable that this measure was dictated by the fear, on the part of those who founded and endowed the Colleges, of innovation. It was the era of Wicliffe: the sect of

the Lollards soon became widely prevalent, broached some extravagant or dangerous opinions, and excited much alarm, among the friends of things as they were, for the security of the established religion. Hence the Founders of Colleges appear to have become more jealous of change, and to have sought security in this restrictive regulation. Sir, I hope the noble Lord will deign to learn a lesson from these facts, and consider with himself whether he is really pursuing the course most likely to insure judicious reforms in the Universities; for they appear to teach us this truth, that when ill-considered schemes of improvement are abroad, people put up their backs, as it is termed, and become fearful even of such changes as, under other circumstances, they would have been ready to allow.

The next allegation on the side of the noble Lord is this: that the local restraints upon the choice of the electors in filling up vacant fellowships are mischievous, and ought to be done away with. Now, Sir, on this I shall observe, first, that we have no proof that the Colleges themselves, in considering the means of seconding the intentions of the University, may not propose and effect, or ask us to aid them in effecting, everything that is necessary on this head. Secondly, that even if all which has been urged against these local restrictions were true, still not even the Legislature, and much less the Crown, could take upon itself the responsibility of their total abolition. No one, I think, will contend that, in dealing with the bequests of a Founder, we can with justice begin by putting his desires wholly out of view, and proceed to reform his institution at our

own pleasure, and according to our pattern of speculative excellence. But, thirdly, it is a gross error to suppose that these local restraints are productive of unmixed injury. There are cases, in which they may and ought to be relaxed: there are cases, in which they have been so relaxed, and no proof is offered us that what yet remains to be done, requires the appointment of a Commission in order to its being effected. It is most desirable that these restraints should not confine the electors to very narrow districts: but neither do they; the general limitation is to one or more counties, or a diocese. It is most desirable that the attainments of candidates should have very great and often the chief weight in elections: but, on the other hand, it would be a great misfortune, if these qualifications only were to be regarded, and if in all cases, without exception, the man that could pass the best examination were to be chosen. Competition is most useful as an element in the process: but do not let the House suppose that competition is everything. We do not employ it much among ourselves: and we should think it no less strange, if it were proposed to choose the Prime Minister by an examination, than if there was an obligation to take him from a particular county, diocese, or family. So it is, not wholly but in a degree, with fellowships. Rely upon it there is as much room for trickery in passing through an examination, as in most of the other transactions of life. Besides the broadest features of religious and moral character, the social tendencies of a man—his gifts of teaching—his assiduity—his disposition to take and to observe his place in the almost do-

mestic body he is to enter—these are qualifications as material as any branch of knowledge, but an examination does not ascertain them ; and I have found, among my constituents, gentlemen the least chargeable with a blind conservatism, who nevertheless feel that, on its own merits, as well as from regard to founders, this principle of local preferences, while its extravagant rigours should be got rid of, deserves to be treated with some indulgence.

Sir, there is nothing in the particular allegations I now have enumerated—and I think that they are all the allegations which have been heard in this debate—to show the need or the justice of the project of the noble Lord: but then there is also the general reason which has been urged, that the varying circumstances of successive periods render changes in these institutions necessary. But how can this ground avail you, when you yourselves admit that the Universities have deserved the utmost praise for the disposition they have shown to appreciate and to meet the exigencies of the times, and when, in regard to the Colleges, you neither prove that they are indisposed to follow, nor give them a moment for deliberation, but, before delinquency is established, or even can be presumed, proceed to administer the corrective, so bad a corrective even in the extremest case, of State interference ? You are bound, I say, when you contemplate any interposition of such a nature, to show, either that you have the consent of the parties ; or that there are gross abuses, which there is no disposition to remedy ; or that there are great and obvious improvements re-

quisite, which there is no disposition to effect; but no one of these things have you shown, no one of them have you attempted to show.

Sir, I come now to a ground upon which, as a member of Parliament and an English citizen, I must offer still broader objections to the measure of the noble Lord. The case must be a very strong one, that could make any interference of the State with the Universities either just or politic; but there can be no case whatever, that could justify the kind of interference projected by the noble Lord. The only way, in which the State ought to interfere, is by an Act of Parliament. I care not whether it be interference to inquire, or interference to determine: you have no right to do either, except under the authority of the Legislature.

Now, Sir, I do not resist this Commission in consequence of any fears I entertain of its immediate consequences to the University. I oppose it as a bad and mischievous precedent, which, whatever its intention be, will be pleaded, and will be acted upon, and that with unassailable consistency, in a worse spirit and in worse times hereafter. But not even the consideration of what it may thus be the means of bringing upon the University at a future period, is my main reason for opposing it. I resist it less as a member of the academic body, than as a member of this House, bound to watch with jealousy every aggression of the Executive power, and to guard, against its very first approaches, the personal and local liberties of Englishmen. I complain that this kind of inquiry is as utterly unconstitutional in its character, as it is bad with reference to its im-

mediate end. To Parliament, no doubt, the University is subject: but the act now proposed is a mere act of the Executive. Had it been founded on a Resolution or Address of the House of Commons, I should still have demanded, that such a question should not be disposed of at a single stroke. I should have invoked the advantage of publicity, and claimed the opportunities of repeated discussion, and of mature decision, which the several stages of a Bill affords. Let us fall, we are entitled to say, in open day, and beneath a hand whose authority we own. But this, Sir, is not even an act of a single House of the Legislature: so far from inviting Parliamentary discussion, the noble Lord has done nearly everything in his power to avert and to stifle it. We were kept unaware of his intention to advise the issue of this Commission until a very late hour of the former evening of this debate: we were distinctly given to understand, by the organs of the Government, that the noble Lord entertained no such intention. Then indeed the noble Lord admitted, courteously, that an opportunity ought to be given for discussing his announcement: but, when the question arose about fixing a day for the purpose, the noble Lord said he saw no occasion for further debate, and that, if it should be renewed, he would move an adjournment of the debate for three months. The Government had made up its mind—that is, the noble Lord in his own room, at his own table, had decided; and, having decided, he intimated, in a manner the most polite, that he had no occasion for the aid of the House of Com-

mons. But I must venture to tell the noble Lord, that the Institutions with which he is disposed to deal thus unceremoniously, are institutions of the very first rank and dignity in this country, and that every step he may take in regard to them requires to be taken with a scrupulous care, and with the utmost respect both for their position, and for that fond and fervent attachment which the community entertains towards them.

Sir, I object again to this Commission, because, stretching the authority of the Crown to matters not within its proper power, it necessarily exposes that authority to disparagement. All the obligations of duty and of loyalty apply to the proceedings of the Crown, only while it is acting in the execution of the laws according to the spirit of the Constitution. But the arbitrary acts of the Crown,—that is to say of its advisers, acting without the law, if not in absolute defiance of it, and in plain contrariety to the spirit of the Constitution,—are entitled to no respect whatever at the hands of any private person, especially when they are done wilfully and after plain warning. If the noble Lord proceeds, as he threatens, to confer on this Commission powers of inquiry, such powers are not his to give, and every individual may make light of them at his will: not only may the information which the Commission will have to solicit be refused, but it may be refused in terms approaching to rudeness and to contempt. The Government, I say, incurs a great responsibility if, without an absolute and clear necessity, it weakens the authority and hazards the dignity of the Crown by ex-

posing a Royal Commission to such a reception ; and to the remark that, whether the refusal be proper or not, you have no right to complain, inasmuch as the demand will have been made wholly without warrant.

Sir, I further complain of this Commission, because it is utterly without power to attain its ends. My doctrine is, that the State should rarely interfere in the concerns of the Universities ; and that, when it does interfere, it should do so effectually. Any Commission of Inquiry into their condition should be a Commission with compulsory powers. But how can this interposition be effectual ? You do not, you cannot, pretend to give authority to coerce, in any one particular, any single person. Well, then, if you cannot depend upon force, can you depend upon free will ? Sir, both the Universities have declared, in terms pretty intelligible, the view which they take of the project of the noble Lord : and have shown most clearly that, in vindication of those ancient liberties which are entrusted to their charge, they will think it their duty to withhold from the Commission all co-operation. What course, then, will this matter practically take ? The Commissioners will go to the Universities, and will invite the production of documents and the tender of evidence. The authorities of the place may, and I presume will, decline to produce the documents : the large majority of the resident body, in each, who have resisted the appointment of the Commission, will follow up that resistance, and refuse to give evidence before an incompetent, because un-

constitutional, tribunal. You will then have to take the evidence of individuals; of a small minority; of a minority, acting in opposition to that of the declared wishes of their fellow-labourers, by supporting and aiding the Commission, and, of necessity, presenting to your view only one side of the case, when a Commission can only be useful by elucidating both.

Nor will evidence be refused solely on the ground that the opponents of the Commission cannot, with consistency, forward its purposes. There are specific obligations which will bind these persons as members of Colleges. They are, in very many cases, bound by their oaths not to reveal the secrets—that is, the internal affairs—of the Society to which they belong. I find an oath taken at Cambridge, which is quoted as follows: *Non revelabis aliquod secretum Collegii*. This is absolute. But in many cases at Oxford the oath runs thus: that the Fellows are bound not to divulge the affairs or proceedings of the College, *in damnum ejus*, when the disclosure would be prejudicial. Now, many,—and those, perhaps, the most scrupulously conscientious, witnesses, the very men whom instead of repelling you ought to have sought to attract, will feel the pledge to be unconditional; and surely many more, having emphatically denounced the appointment of the Commission as alike unjust and injurious, will be bound by this oath to refuse disclosures, which they have themselves beforehand declared to be in the highest degree prejudicial.

Now, Sir, if the noble Lord would have proceeded by Act of Parliament, he would have escaped this

difficulty, and would have had a fair and full examination. I conceive it to be beyond dispute, that of all such oaths as these, being of positive and not of moral obligation, and affecting the general position of our institutions, the supreme power in the State has full authority to relax the force. Under the sanction of an Act, persons would be both entitled and bound to make known all the affairs of Colleges. But I presume the noble Lord does not mean to introduce into this country any other dispensing power than that of the Legislature. If, indeed, I try him by his precedents there might be room for that apprehension. The favourite period of our history with the noble Lord is, it seems, the reign of James the Second. It is in that inauspicious reign, in the year 1686, that the last and closest precedent for the proceeding now threatened is to be found. In that proceeding there was so much, at least, of consistency, that the dispensing power was assumed. Will the noble Lord follow the example? He will not: but he will institute a professed inquiry, knowing that his inquiry must be thoroughly one-sided, giving encouragement to a lax construction of oaths on the part of some, but aware that he can hear only one class of witnesses, and that a class acting in opposition to the declared and general sense of the University, which will be excluded by the course he takes. And, Sir, whether right or wrong in these anticipations, at any rate I am not parading a mere bugbear before the House. It is an historical fact, which you may easily ascertain by reference to Wood, that in the year 1647, when an un-

constitutional visitation of the Universities took place under the warrant of Parliament only, the then Vice-Chancellor and Heads of Colleges in Oxford had the courage to look beyond the policy, and to resist the pressure, of the moment, and distinctly to refuse the information which was demanded of them. As a sample of the spirit of those times, Wood has handed down to us this Resolution:—

“That the Books required of us are such as contain in them those secrets of the College, which we are sworn to communicate to none but those that are members of this Society; and that, by the statutes, the government and affairs of our College are not by our consent to be examined by any whatever but only our particular Visitor, or by his Deputy sent and authorised by him, whom our Founder hath constituted and appointed the sole Visitor of our College, and we accordingly are bound by our oaths to conform ourselves to the said statute.”

And, if you tell me that we shall have a sufficiency of evidence, I reply, do you mean a sufficiency to afford a decent plea for acting upon your foregone conclusions, or a sufficiency for bringing out on all sides the whole truth, and placing it in the public view? The latter you cannot have, and if you may attain the former, I tell you it is on the part of the Executive Government a course to the last degree ungenerous and unjust, to enter in among the members of these useful and laborious bodies, and, by a distant perspective of patronage and preferment, to attempt to divide such men one from another upon matters the most immediately connected with their daily duties, their habits, and their affections, and the future peace of their usually tranquil communities.

And now, Sir, if I have touched upon even the legality of this Commission, and have denounced it

as wholly unconstitutional, I have not done so in the way of vague declamation only, as I shall forthwith proceed to show. I assert that this Commission, if not absolutely illegal, is unconstitutional, and that to such a degree, and in such a sense, that the House of Commons ought to repudiate and eschew it just as much as if it were absolutely illegal. And, firstly, no attempt at an answer has been made to the statement of the learned member for Newark (Mr. Stuart). In the second place, not upon my own but upon much higher authority, I say there is yet broader ground for doubting the legality of this Commission, and I challenge the Government to prove that legality. It seems to be assumed by them, that when it has been declared the Commission will lay claim to no coercive powers, the question is at an end. Sir, I deny that you have a right, under the name of inquiry, to annoy every body and unsettle every thing, and ride off upon the plea that you did not compel them to obey your wishes. I understand that on more than one occasion, at a period when our liberties were less mature and less fully developed than they now are, it has been solemnly adjudged in our Courts of Justice, that Commissions purporting to be of Inquiry, and issued by the Crown, are illegal, unless distinct statute or common law can be shown for them, which, in the present instance, has neither been done nor tried as yet.

But, Sir, even if the bare legality of this Commission could be maintained, I hold that it is odious in the eye of the Constitution, because it is the exercise of a pretended power by the Crown which is

neither law nor prerogative, and which, being neither, the Constitution of this country does not recognise, and, not recognising, condemns.

And here I cannot but express my astonishment that, from the opposite side of the House, or indeed from any part of this House whatever, there should have proceeded such a theory concerning the prerogative as has been broached to-night, if I understand him rightly, by the honourable member who spoke last. The honourable gentleman complains of our complaint, that the Commission is unconstitutional. He says the word 'constitutional' means something neither here nor there, something vague and undefined, which cannot be referred to any fixed standard. Sir, with reference to the present subject, I do not admit this vagueness. It appears to me that, considering how some two centuries of our history have been spent in a continued and successful struggle to define and fix the powers of the Crown, and its relation to other bodies and persons in the State, people really ought at this time of day to have some little notion, at least as regards those powers, of what is meant by the word constitutional. If there is one thing now clear, and indisputably determined, in our political system, that one thing is the position and function of the Crown. It has to exercise certain statutory powers, and certain known prerogatives. But, strange to say, the honourable gentleman seems to think, that the Royal prerogative is an undefined power held in reserve to fill up all the gaps in legislation, and to do what there is nobody else having by law any right to do. Against such a doctrine, which sets up prerogative as the indeterminate sup-

plement to the imperfection of human law, I protest with all my soul and strength : it is a pernicious and a slavish doctrine ; but I freely grant to the honourable gentleman, that unless it be true, unless all cases not provided for by law are to be dealt with by prerogative, it is impossible to justify the issue of this Commission.

Now, Sir, the question may be put, where lies the burden of proof? The Crown, on the noble Lord's advice, is about to exercise a power which will affect corporate privileges, and through which private persons may be damnified. I say it is not incumbent upon us to prove the negative, to show that the Crown is acting without any warrant, but it is incumbent upon the noble Lord to show, in history and in law, a ground and a warrant for the exercise of that power.

Where, then, is there such a ground? As to law, there is not so much as a shadow of it, except the Visitorial power with respect, not to the Colleges, but to the Universities : but, then, this Commission is not Visitorial, and will not act in virtue of that power. And now as to history. Some precedents have been alleged : let us examine them. Reference was made in general terms, in a lump as is said, to the old precedents of the sixteenth century. There were, during the reigns of Edward VI., Mary, and Elizabeth, abundant examples of Commissions, not indeed such as this, appointed to beg for information from any one kind enough to give it, but Commissions with power to examine, power to decide, power to visit and reform. Now I might fairly except against the attempt to found an exercise of power by the Crown

in 1850 on Tudor precedents. But I need not do so. Nor need I refer to the doctrine of a high legal authority, that the Crown at that time had power by the common law to appoint such Commissions of reform. For, even under those arbitrary Sovereigns, these Commissions were generally, perhaps even in every instance, appointed to exercise powers conferred by statute. The statute of the 26th of Henry VIII. conferred upon the Crown all visitorial and corrective jurisdiction in ecclesiastical affairs. The first of Elizabeth gave the same power in terms yet more specific, and gave express power for the exercise of it by Commissioners: and the Universities were at that period taken in law, as my learned friend the member for Plymouth (Mr. R. Palmer) acquainted us to-night, to be ecclesiastical corporations. But what has become of these statutory powers? The Government seems never to have adverted to the fact, (if indeed they have examined the question of right at all, which I do not believe,) that these powers were swept away by the Act of the sixteenth of Charles the First. James the Second indeed, of whom the noble Lord appears to-night as an imitator at an humble distance, attempted to exercise those powers notwithstanding the repealing Act. Every one knows, what share that attempt had in bringing about the Revolution. And then, the best security was taken against any repetition of such attempts by the Bill of Rights, which in express terms, while avowedly setting forth the fundamental guarantees of English liberty, stamped all such Commissions with the brand of illegality. So that no title for the present Commission can be drawn

from these ancient Commissions, which were only legal while they were statutory, and which the Legislature in the most solemn manner, one hundred and sixty years ago, has declared and made illegal.

Now, let us take the modern precedents, of which the noble Lord mentioned some three or four on a former occasion, and of which the right honourable Baronet, the Secretary of State for the Home Department, has laboured to night, with no great success, to add to the number. I will not stop to inquire, at any length, whether any of these Commissions were questionable in themselves, and whether one proceeding of doubtful right ought to be admitted in proof of the validity and propriety of another. But I will undertake to tear every one of these precedents into tatters, by showing that they differ in the most essential features from this case, and that the very points, which perhaps may make them warrantable, are here wholly wanting.

First: the noble Lord reminded the House that an inquiry had been instituted, some twenty-five or thirty years ago, into the state of the Scotch Universities. Well, Sir, it bore no resemblance to the Commission now proposed: it was not a fishing Commission: nor a prying Commission: nor a Commission dependent on the receipt of eleemosynary evidence. Its composition, in the first place, afforded the strongest presumption—first, of its legality, because the great bulk of the Scottish Judges sat upon it: secondly, of the consent of the parties interested, for among its members it had the heads of several of the Scottish Universities. In its professed purpose there was nothing suspicious or irre-

gular : it was addressed to Universities of a constitution very different from ours, and also to Universities not connected as ours are with separate collegiate foundations, and it was declared in the warrant to be appointed strictly in and for the exercise of Visitorial powers. The warrant recites as follows :—

“Considering that it is His Majesty’s undoubted right and prerogative to name Visitors and Commissioners to inquire into such irregularities, disputes, and deficiencies, and to remedy the same.”

Let the noble Lord confine himself to the exercise of Visitorial powers, and I for one shall not complain of his proceedings.

Again, Sir, this was not a halting Commission, like that now proposed, professing to examine a subject without the slightest pretension to power for insuring the production of the most material evidence. The warrant gave power to compel the production of any document, and to require evidence upon oath.

And, lastly, this was a Commission appointed to legislate for the Scottish Universities : and it did accordingly frame codes of statutes for each of them, which are set out in the Report.

So that the Scotch Commission was wholly different in its purpose, in its powers, in the character under which it acted, in the authorities for its legality, and in the presumably full consent of the bodies interested.

So much for the first modern precedent.

The second is, if possible, still less to the purpose. It is the Commission of Inquiry into Charities, which was procured by Lord Brougham. That was a

Commission in the very form in which I contend this ought to appear, if you had a case for inquiring at all: it was a Commission created by Act of Parliament. Let us by all means have a Bill introduced: we shall then find out, at its several stages, what is to be inquired into: we shall know, and shall have a voice in determining, who are to inquire: and the Houses of Parliament will have the opportunity of defending, against the noble Lord, both the dignity of the Crown and the rights of the subject. Why, Sir, I have looked into the Charity Commission Act, and with all due respect I say that the citation of it as a precedent is not only irrelevant, it is ludicrous. This Act not only gives power to summon persons, compel the production of papers, administer oaths, commit for refusals, and institute suits, (thus showing that what it really contemplated was positive abuse and malversation,) but it winds up by excepting from its own purview every thing that bears the least resemblance to those magnificent charities, into the state of which the noble Lord is about to inquire. It excepts the Universities of Oxford and Cambridge: Eton, Winchester, Westminster, Harrow, Rugby, the Charter House: all Roman Catholic foundations: all Colleges and Halls in the Universities: and finally, it declares that its provisions shall not extend to

“Any College, Free School, or other charitable institution for the purposes of education, which have special Visitors, Governors, or Overseers, appointed by their Founders.”

What could be more legitimate, than that where Founders had appointed no guardian of their bequests, the Legislature should provide for the exer-

cise of the guardianship : what can be more absurd, than to quote an Act of Parliament for inquiry into foundations that have no Visitors, as an apology for inquiring, without any Act of Parliament at all, into foundations that have Visitors already provided ! The present proceeding is, in point of fact, the proceeding in the case of the Charity Commission Act read backwards.

Then, Sir, the Ecclesiastical Commission of Inquiry, appointed in the year 1835, is brought in to pass muster on the present occasion. Now, Sir, at that time it was almost the universal feeling that large changes were requisite in the Church, which could only be effected by State authority : but I will not lay stress upon that fact : nor upon this other, that the Church collectively is no corporation at all in the eye of the law, much less a private corporation ; and that its rights, its securities, and the proper modes of dealing with it, are, in many respects, distinct. The difference upon which I stand is this : that Commission of inquiry was appointed with the good-will and assent of the parties. The leading prelates of the Church were members of it : nay, no part of the Bishops, or of the Capitular bodies, were known at the time to be dissentients. Subsequently indeed, when the recommendations of the Commission came to be made, they excited gradually increasing resistance : and then the rights of the Commission itself came to be questioned, but it was issued not only with general approval, it had I believe even the unanimous assent of the parties. Let the noble Lord show me this, or any thing in the very least resembling it, on the part of the Universities

and the Colleges, and I will then admit the precedent as good, which I now dismiss as wholly valueless.

But we have not yet done : the industry of the right honourable Baronet (Sir G. Grey) has to-night suggested as a fourth precedent, the inquiry into Educational Charities in Ireland, in the year 1824. I do not say he could have found a better : but there can scarcely be a worse. All these charities received support from public money : some only in part, others in whole. Wherever public money is given, it is difficult to place any limit on the title and duty of the State to examine into its application. Perhaps you will found the noble Lord's right to inquire into the state of the Universities upon the infinitesimal grants which are annually made to them. I advise you to make the most of that argument : say to the Universities, we propose this Commission, because you are in the receipt of public money. (A laugh.) But no ; you treat that idea as ludicrous, and it is so. Besides, even that plea totally fails, when you come to the Colleges, which receive no public money whatever, and which yet are, as we know, the real object of the proposed inquiry. And I hope the House will also look to what is yet more fatal to this allegation of precedent. The right honourable Baronet did not acquaint us that the charities in Ireland, which were the objects of this inquiry, were charities having Visitors of their own already provided. But if they were not, I grant at once that the case of eleemosynary institutions, in which there is no controul provided, is very different indeed from that of bodies like those now menaced, where there are regular and recog-

nised authorities to prevent abuse and to promote improvement, which legitimate authorities you do not attempt to put in action, although the Visitorial power over the Universities, and over several Colleges, is actually and legally in the hands of the Crown.

Finally, Sir, reference has been made to the inquiry of the year 1833 into municipal corporations; and here I must plainly say I think the rule applies, that you are not to prove one doubtful case by an appeal to another. The legal and constitutional character of that inquiry, under the authority of the Crown, is open to too much dispute to make it a safe foundation for another such inquiry. But, whatever may be wanting in the case for that Commission, it is an infinitely better case than the one now before us. The municipal bodies were not, like the Colleges, private, but were public corporations. When the Commission issued there was a widely spread belief, and one I apprehend not without historical foundation, that these corporations in general had originally been representative bodies of a popular character, and had in the lapse of time become close and self-elected. Now if that were true, it amounted to a breach of trust of the very gravest character, and in such a departure of these bodies from their proper constitution, there was an ample justification for the interference of the Legislature. I do not say that this was enough to justify the form of the preliminary proceeding, if the Crown went beyond its proper office, and appointed an organ constitutionally incompetent to conduct the investigation: but an interference to ascertain, with a view to correcting, a positive breach of trust, in a public body

exercising powers of taxation and government, is at any rate very widely different from a proceeding like this, when you are going to examine the case chiefly of private corporations, and altogether of corporations against which you bring no charge of breach of trust, but which you admit to be diligently engaged in the fulfilment of the main purpose for which you conceive them to exist. And, accordingly, the Commission of Inquiry into Municipal Corporations showed some apparent consciousness of right and real power, gave authority to require the production of documents, and to examine on oath, and commanded all subjects to be assistants to the Commissioners, language which I suspect the noble Lord will be slow to use in the Commission which he now proposes to issue.

Sir, such is the array of precedents alleged by the Government: and I feel justified in employing the familiar phrase that not one of them, for the present purpose, is worth a single straw.

And, Sir, as this arbitrary exercise of power is without law, and without example, so I shall proceed to show it is without limit.

Sir, I say we have a right to demand a clear definition of the power in virtue of which the Crown is about to issue this Commission. Now all we have been told is, that, as the Commission will lay claim to no coercive jurisdiction, it is therefore legal and constitutional. Is it then meant to insinuate that every inquiry into whatever subject that the Crown may choose to make is legal and constitutional? If not, what are the subjects into which it may inquire, what are those into which it may not, and by what

intelligible rule or principle are they distinguished one from the other?

The Secretary of State did not in his speech claim for the Crown the right of universal inquisition: but he alleged the Visitorial power of the Crown over the Universities. Sir, he could not have exposed more glaringly the weakness of his case. There are two answers, each of them, even if alone, conclusive. The first is, that the real object is not to inquire into the Universities, with respect to which almost every thing is already patent to the world, but into the Colleges; while of the Colleges, except a few of them, the Crown is not the Visitor. The second is, that this inquiry is not Visitorial at all. It is admitted on all hands that the Crown is bound to a certain mode of exercising the Visitorial power. It must be exercised by the Queen in the Queen's Courts: in the Court of Chancery for breach of trust—in the Queen's Bench, I believe, if not for breach of trust. But the Crown has no power to exercise the Visitorial office through the medium of any Commission which the noble Lord may choose to appoint.

But, Sir, as the Secretary of State has referred to the visitorial power of the Crown, I will ask, why has that power not been put into exercise? or, why, at least, has the question not been examined whether, and how far, this could be done with advantage? Sir, I say that perhaps all, certainly most, of what is required for the Colleges, can be accomplished by the Collegiate bodies themselves, with the aid, or at the suggestion, of their Visitors. Let the Crown, in its capacity of Visitor of certain Colleges, discharge its full duty, and, having done

all it can in that capacity, if more shall still remain to be done, let it then come to Parliament for power: and let us see whether other Visitors do not follow the example of the Crown in using their powers. There are two ways, Sir, of going about the work of reform in matters such as these. One is regular and legitimate: it is to respect what has been established by those who have preceded us, and to use the instruments they have provided until we find them ineffective. The other way is, to pass by precedent and principle, and to fall back on an arbitrary, indefinite prerogative, without any basis in history or law, but for which it is hoped to obtain either the sanction, or the tacit allowance, of this House, because many of its members, thinking an enquiry into the state of the Colleges desirable, will not take the trouble to consider the legitimacy of the means, by which the end they desire is to be reached. This may be the way to save trouble, and to catch popularity with those who do not like to find obstacles between themselves and their plans of hasty change; but it is a slovenly and an unworthy way of conducting the business of the country, and a way of evincing a disrespect to these venerable and venerated bodies, which they have done nothing to deserve.

Sir, I must pursue still farther the question, on what the pretended right of the Crown to order this inquiry rests? I defy you to show a right of the Crown to inquire into the state of these Colleges, by any form of argument which will not also reach to asserting the whole of the preposterous proposition, that the Crown has the right to make

any inquiry it pleases, however great the nuisance, provided it does not assume the exercise of coercive powers. That proposition the Government shrinks from asserting in terms: but, if the Crown has not the right to inquire into any and everything, I want to examine strictly the question, what it is in the constitution or condition of the Colleges of Oxford and Cambridge, which brings them within the scope of this office of inquiry, that we may see how far it extends, and into what institutions, or what private concerns, to-morrow or next day, an inquiry may be ordered. I remind the House that, in the eye of the law, these Colleges are private eleemosynary incorporations. Now, is it meant to assert a right of the Crown—and all along I am speaking only of the rights of the Executive Government, not of the Legislature—to inquire into all such incorporations? If so, let us consider how far this will carry us. I see near me my honourable friend, the member for Maidstone (Mr A. Beresford Hope). With a public spirit and munificence, on which I should dilate freely if I were not speaking in his presence, he has been engaged in the foundation of an eleemosynary institution at Canterbury, which is in the strictest sense a College, and which has a charter. I want to know whether that College is, or is not, liable to be subjected, at the pleasure of the noble Lord, to inquiry by a Royal Commission? I say, it is material for my honourable friend, it is material for all those who may have shared in such works, it is material for all those who may intend to devote their substance and their care hereafter to establishing such foundations, that they should

know whether their establishments are to be liable, perhaps in their own lifetimes, to any and every inquiry, by whatever persons, and with whatever object, at the pure will of the Minister of the day?

But, perhaps it will be said, the College of Saint Augustine at Canterbury is not in the condition of a College connected with an University; but those of Oxford and Cambridge are so: and, although they may be in themselves private incorporations, yet these Universities are public incorporations, existing under statute, and both of them have laws excluding from them all persons except such as have obtained admission into one of these Colleges or private incorporations. So you may attempt to found your proceeding upon the distinction between these two classes of Colleges, and may plausibly urge, that the Colleges of Oxford and Cambridge, although private foundations, yet, having a monopoly of the admissions to the Universities which are public, holding in their hands (so to speak) the key of matriculation, are themselves virtually public. Is this then your defence?

If it is, then I must remind the House, that Oxford and Cambridge are not now the only English Universities. Besides Durham, of which I need not speak particularly, we have the University of London. Now a great variety of Colleges through the country are affiliated to the University of London, just as the Colleges in Oxford and Cambridge are affiliated to those Universities respectively. Again, the same rule, I am informed, prevails with respect to matriculations. No student can be admitted to the University of London without having been admitted

to one of these Colleges. Consequently, this pretended right of inquiry, even limited by the argument I am now handling, seems to reach to the Colleges affiliated to the University of London. Is it then so? The students of King's College, for instance, are admissible to the London University. Is that College subject to the inquisition of the noble Lord? Perhaps you will say, that is a College of the Established Church, and we may cut and carve it as we please. Well, Sir, let that pass; but we are now in the midst of a large family of Dissenting Colleges. How are they affected by this proceeding? Can the noble Lord, at his own will, appoint a Royal Commission, composed also at his discretion, to enquire into the state of the Wesleyan College at Richmond?—of the Independent College at Highbury?—of the Roman Catholic College at Oscott?—and of other Roman Catholic Colleges? All these religious communities have Colleges founded by private munificence, like those of Oxford and Cambridge, and like them, enjoying, by connection with an University, State privileges. There are also, I believe, one or more Colleges not so easily described, which are not seminaries of any particular religious persuasion, but belong to those whom the Master of the Mint (Mr. Sheil) lately, with singular felicity, designated as “Christians unattached.” I say to the Government, if you are entitled to inquire into the concerns of the Oxford and Cambridge Colleges, show me upon what principle these establishments can be secure against your assumptions of power: if you tell me that these Colleges of the London University are not subject to your prerogative of enquiry,

I then say, show me the distinction between them and the Colleges of Oxford and Cambridge which excludes the former and includes the latter. Above all, I say do not proceed in this matter without some rule or principle of some kind to guide, and give no sanction to the doctrine of an undefined and arbitrary prerogative, without either authority from the past or limitation for the future.

But further, Sir, I want to know whether, if we tolerate this power of enquiry, which is now to be put in operation, we can prevent it from extending even to the private affairs of any gentleman in this House? The same plea, that no coercion is intended, might still be employed: and no other plea in favour of such an alleged power has on this occasion been employed. If this proceeding, then, be lawful—if the argument I have used as to the scope of the power cannot be answered—I ask, not for bare general declarations, that such inquiry into private affairs is not meditated by the Minister, but for reasons and grounds of law which shall show that he admits its illegality. He can give me none, but those that would also condemn his plan of to-day. He has, I grant, just as much authority to execute that plan as he has to send a Commission to my door, to receive voluntary evidence, from those who go in and out, respecting what passes within the house; just as much authority as I have to send a commission to the door of the noble Lord for a similar purpose. Sir, I say that, for all we have heard from the Minister to the contrary, this is strictly a true representation: and, again, I challenge the Government to show wherein the difference, not of fact but of right, consists.

Sir, if I have spoken strongly upon this subject, it is because I feel strongly, because I faithfully convey the impressions which the examination of it has left upon my mind; and most earnestly do I wish, that the House of Commons would separate from their desire to obtain an inquiry into the state of the Universities and Colleges, the totally different question of the wisdom, the legitimacy, nay, even the legality, of the means which the Government proposes to employ: and I am convinced that nothing else is necessary in order to insure the condemnation of the project; and that the House would act a wise part, if, instead of abetting it, they would join in urging the noble Lord to reconsider the course he is inclined to take, to come to Parliament, and ask, in the regular manner, for full powers to institute such an inquiry, if inquiry be needed, as will bring out the whole merits of the case under public authority, and then to submit to us the grounds on which he may think it his duty to propose any legislative measure.

Sir, I do not deny that the freedom and self-government of particular corporations in a State bring with them great dangers; but I maintain that, according to the genius of our institutions, and the character of this people, they are absolutely essential to the real health and vigour of the Universities. I do not scruple to go farther, and to say, that a worse system of management, a less economical administration of the property, nay, even a more defective machinery of instruction, with freedom and self-government, will, in the choice of evils, be better than the most perfect mechanism, the

best system of account and finance that any amount of Parliamentary interference can secure. I will not say that it is impossible for the State, by interference with such seminaries of learning, to increase the amount of scientific acquirements; but the pursuit of science is a small part of the business of education. When I attempt to plead the cause of the English Universities, I will not presume to deny that they have done for learning what has been, on the whole, less than in the abstract it might have been; but they have nevertheless done what has answered the circumstances of the times, and the exigencies of the country. And when we look to the lawyers, the divines, and the statesmen of England, the best, and by far the largest, part of whom have been reared in these Universities, I feel that we need not be ashamed of them, or of the cradles in which they were nurtured, on account of any inferiority in their merely scholastic or technical acquirements, (if such inferiority there be,) as compared with the leading men of other countries. But freedom and self-government we must have in these institutions, and we must brave their risks, on account of their surpassing benefits.

Sir, in proof of this proposition, I will refer in a word to what happened in the age of Mary Tudor. In that unhappy period, the Universities sustained the heaviest shocks of theological controversy, being driven first one way, and then another, having now one set of teachers, and now another, and they were exposed to all those changes that distract the mind, and are incompatible with the tranquil pursuit of

learning, and that concentration of mental power which it requires. The consequence was that, in that reign, and indeed it may be said in that century, the interests of learning were at the lowest ebb in the Universities; their numbers were low, their studies neglected, works connected with science exceedingly scanty. There was no want of good intentions on the part of the State; for in that century every Sovereign, whatever his religious tendencies or opinions, felt and acted kindly towards the Universities, and while the Church was plundered, the Universities (apart from the Monastic bodies which were connected with them) were spared. What did Mary do? She bestowed on the Universities many ecclesiastical estates, she gave them benefices, and various other advantages. According to Professor Huber's historical account, she invited over a number of learned foreigners, and the Star Chamber itself was invoked to defend the University against the city of Oxford, in those habitual feuds which had not yet been brought to a termination. Notwithstanding all this friendly interposition on the part of Mary, the state of the Universities continued to be lamentable during the whole of her reign. Now listen to the account which that learned, assiduous, and philosophical inquirer, whom I have named, has given of the reasons why all this friendly care failed to secure a return of prosperity to the Universities. I read from the translation of Mr Newman, which appears in this place at least to convey the sense of the original:—

“The cause of the failure is easy to discover. The Universities had everything, except the most necessary element of all—Freedom: which, by the immutable laws of nature, is always an indispensable

condition of real and permanent prosperity in the higher intellectual cultivation and its organs. In vain has brute force at any time sought, for the sake of some political aim, to thwart this law of nature : those shadowy beings, scientific officers and corporations, can never become a substitute for the genuine and wholesome energy of life." —*Huber's History of the English Universities, Vol. I., p. 290.*

Sir, this passage, I apprehend, contains the truth of the case. Undoubtedly you may, by State interference, do many things : among the rest, you may provide that every chair in the Universities shall be filled by a man of high attainments, but living study you cannot create by political agency ; moral and social and religious progress in the Universities you cannot secure either by the coercion or the influence of the State.

I must now call the attention of the House to another point which I fear has not been duly considered. I cannot help thinking that the course the noble Lord is about to take will tend very greatly to discourage the establishment of eleemosynary foundations. There is no doubt that any individual, who may be deliberating with himself whether he will or will not devote a portion of his substance for prosecuting the objects of learning, civilization, and religion, may well be checked by the prospect, that at any given time, and under any given circumstances, a Minister, who is the creature of a political majority in this House, may institute, without the authority of Parliament, a State inquiry into the mode in which the funds he may devise shall happen to be administered. Every one must think that that would be a discouragement to all eleemosynary establishments. But will it be wise so to discourage them ? There was a time when it was perfectly

right to pass statutes of mortmain, when the wealth of corporations was such as was likely to impede the progress of industry, and to absorb a great portion of the landed property of the country. But that is not so now—we are now a nation developing unexampled energies in the pursuit of trade and of material wealth. Do you not think it a good and a far-sighted policy to pursue a generous and a favourable conduct towards those who may be disposed to rescue some part of that wealth from pursuits merely material, and devote it to the cultivation of all that is most elevated, and most elevating, in the human being? Take these foundations at the best, take them at the average, or take them at the very worst, are they, have they ever been, otherwise than signal benefits to the country? Do we not rely on them, in a great degree, to maintain against the shocks of ruder elements the higher and nobler life of the nation? For the sake alike of religion and of civilization, alike of the moral training of the mind and of its vigorous intellectual development, our tendency and desire should be to encourage, within every reasonable limit, these appropriations of property, which are among the very noblest gifts that an earlier can transmit to a later generation. In all times, even the very worst, they have been admitted to deserve that character: hence, down to our day, they have escaped the hand of the spoiler, and I trust and believe they will still baffle his attempts.

And I entreat the House to consider the bearing of this part of the argument on the respective interests of various classes of society. This House would not wish that civilising studies should be

exclusively confined to the higher classes, but that they should find their way to the labouring population; for this is emphatically true, that these foundations at this moment are, and still more is it true that heretofore they have been, in no small degree the especial patrimony of the poor. If we look through the history of the Reformed Church of England, we shall find that almost every learned man of that Church has been reared in the Universities, and an immense proportion of them have come from the humbler classes. On this ground I make an appeal to the noble Lord. How have those men found their way to distinction? Through these local foundations. The case stands nearly thus:—that those persons who have not enjoyed the advantage of that training in their early years which is given to the children of gentlemen such as sit in that House, but have had to rough it, having the rude unwrought materials of excellence in them, and having been partially educated at some grammar-school in their neighbourhood, came up to the Universities, and by means of these local foundations got fellowships which they never could have got, if they had been put at once into an unrestrained competition with the sons of gentlemen who had been trained in refined manners and in humanising studies from their earliest years,—a competition which, we may depend upon it, will be very unfavourable to the democratic character, and I use that word in its most honourable sense, which has always distinguished our Universities. If the Universities have one especial fault now, it is that they have too much the character of seminaries of the

higher classes. I ardently desire to see them embrace a larger number of the middle and of the labouring classes of society. Assist them you may. The noble Lord has large means in his hands of doing good by judicious communication with the Universities ; he will find there abundant readiness to enter into the consideration of judicious changes, and to effect them by regular means ; but by the noble Lord's present course he will lose all the advantages of his high position, of the influence that belongs to it when rightly used, and of the temper, so favourable to practical improvement, in the Universities themselves.

Sir, whatever their adversaries may allege against them, these Universities have borne a great and conspicuous part in the history of England, and no man can know the history of England without knowing something of the history of our Universities. I think the honourable Member for Buckinghamshire, in one of his works, has admirably pourtrayed what he calls the little world of Eton. Every public school in this country is a little world. It is not a mere school for instruction in books ; it is still more a school of manners and of life. The Universities are the same, but on a larger scale, and there is not a feature or a point in the national character which has made England great among the nations of the world, which is not strongly developed and plainly traceable in our Universities. For eight hundred or a thousand years they have been intimately associated with everything that has concerned the highest interests of the country. Not even now have they fallen behind the age. Under increasing difficul-

ties—under increasing competition—under a competition which, I rejoice to say, is increasing—they will do their best to answer the demands which the country may make upon them.

But of this, at least, I am sure, that of all bodies claiming a title to complain of the Universities, the House of Commons should be the last. Whatever may be said with regard to their scientific or classical training—however it may be urged that France has beaten Cambridge in mathematics—or that Oxford owes her manuals of classical learning to the Germans—at least the Universities have done their duty as the schools of our statesmen. It is in this assembly that the popular elements of the constitution have been developed; and it is in this assembly that men at least adequate to the time have never been wanting from the Universities. No doubt, there have been brilliant exceptions—as in the Prime Minister of the present day; and I do not wish to see a monopoly established either in the Universities or elsewhere; but I cannot reflect on the state of the Treasury bench, and the names of the distinguished men who sit there, without feeling that the Universities have no cause to blush in the face of the House of Commons.

Nor is this less, but even more, the case, when I turn to the side of the House which is not occupied by the Government and its supporters; because then I am reminded, that the most distinguished son of Oxford in the present century was likewise the man recognised by his country, recognised by the whole civilised world, not merely as a statesman of consummate capacity and pre-eminent distinction,

but as being, beyond all other men, the representative and the type of the genius of the British House of Commons. Oxford, Sir, made a great gift to the country, when it trained for public life the mind of Sir Robert Peel ; and often as we shall have occasion to deplore his loss, I for one can never more deplore it than on this very night, when, had it pleased the Almighty to spare the life of that great man, he would, I am certain, have been here to throw his protecting shield over that University, of whose interests he was at one time the chosen guardian in this House, and which, after political exigencies had dissolved the connection between them, he continued, as I believe, to love to the very last with unabated ardour.

Sir, I deeply grieve that in this day we should be treating of such a matter at all, as of a blow aimed at the Universities by the noble Lord. I acquit him of the intention to inflict injury upon them, but his intention will not neutralise the mischief of his precedent ; and whether actual mischief to the immediate objects of this inquiry be the result or not, he cannot be excused for having compromised and overborne, in the prosecution of his end, principles of the constitution and essential guarantees of British freedom. I am persuaded that, at an earlier period of the Session, when the House would have been disposed to a more full consideration of this question, when larger numbers of members would have taken part in the vote upon it, and when we should have enjoyed the powerful aid of which we are now deprived, we should have occupied, in defending the Universities, a position

of far greater advantage, and the sense of the House might probably have been declared in a manner adverse to the views of the noble Lord. Whether we have now a hope of such an issue to the debate, I dare hardly say; but, be that as it may, I again urge the noble Lord to reconsider the intention he has too hastily formed, and not to proceed with it, until he has given more time to the examination of the principles involved in this very grave question. But, Sir, whether the vote of this House may support and encourage the noble Lord or not, I at least cannot for a moment hesitate. Not denying either the power, or the right, or the duty of Parliament to consider and to take measures in regard to the state of the Universities, when adequate cause is shown, I both deny that such cause has been shown on this occasion, and I protest in the most emphatic terms against this unprecedented exercise of power by the Crown, this unconstitutional pretension to a novel and undefined prerogative. I protest against it as dangerous to all the liberties of the subject, as exposing to contumely and slight the dignity of the Crown itself, and as full of hazard, not perhaps in its immediate and palpable effect, but in the future development of the insidious principle it involves, to the Universities of England; to the Universities of England, whose property may indeed be secure from either power or will to attack it, but which you may more deeply wound in those far more precious liberties, which are the one essential condition of their vigour and their well being.

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